

1 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RICHARD WHITESIDE : CIVIL ACTION
v. :
NATIONAL CREDIT SYSTEMS, INC. : NO. 99-3604

FINDINGS OF FACT AND CONCLUSIONS OF LAW

R.F. KELLY, J. MARCH, 2000

Plaintiff, Richard Whiteside, instituted an action against defendant, National Credit Systems, Inc. ("NCS") alleging violations by NCS of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et. seq. and the Pennsylvania Debt Collection Trade Practices Act, 37 Pa. Code § 303.1, et. seq. A bench trial was held on March 20, 2000 and from the testimony and exhibits, the Court makes the following:

FINDINGS OF FACT

1. Sometime prior to September 1, 1994, plaintiff, Richard Whiteside ("plaintiff"), entered into a Lease Agreement with Park Towne Place Apartment storeside in an apartment located at Park Town Place, 2200 Benjamin Franklin Parkway, Philadelphia, Pennsylvania 19130 from September 1, 1994 through March 31, 1997.

2. On or about March 4, 1997, plaintiff voluntarily vacated the apartment premises prior to a scheduled eviction by Park Towne Place due to plaintiff's failure to pay rent.

3. Prior to his voluntary vacating the apartment premises, plaintiff admits that he owed Park Town Place back rent.

4. Judgment was entered in favor of Park Towne and against plaintiff for the amount of

\$4,342.00. See Philadelphia Municipal Court, February Term, 1997; Docket No. 71858.

5. Sometime between April, 1997 and August, 1997, Park Towne Place retained defendant, National Credit Systems, Inc. (“NCS”), to collect these monies due and owing from plaintiff.

6. Subsequent to the entry of judgment by Park Towne against plaintiff, NCS forwarded correspondence to plaintiff requesting that he notify them within thirty (30) days upon receipt of same whether he was disputing the validity of the debt of \$4,342.00. See Plaintiff’s Exhibit 2.

7. On or about the first week of May, 1999, NCS contacted plaintiff via telephone call for the purposes of an attempt to collect the debt owed to Park Towne Place. Plaintiff testified that he hung up the telephone on the NCS representative because he was leaving for work.

8. On or about May 25, 1999, a representative from NCS and plaintiff spoke via telephone regarding his underlying debt and the possibility of it being resolved for some amount less than what was owed. No final resolution with respect to these monies owed was ever confirmed by NCS or plaintiff. It is unclear and unverified whether plaintiff indicated to NCS on this date that he was represented by counsel because plaintiff has provided no proof of this allegation.

9. On or about June 9, 1999, Renee Jones from NCS forwarded correspondence to Larry Hill and plaintiff, Richard Whiteside, who were roommates in the apartment at Park Towne Place. The correspondence was co-addressed specifically to Larry Hill and plaintiff.

10. Plaintiff testified during cross-examination that he experienced headaches soon after he lost this job and was forced to leave his apartment on March 4, 1997.

11. Plaintiff testified during cross-examination that he began taking blood pressure

medications sometime in 1998 due to his increase in blood pressure from the loss of his job, because he was forced to sleep on his friend's sofa while he was looking for a new job, and because he owed numerous other outstanding debts. Plaintiff also testified that he experienced an increase of stress in his life because of these multiple problems.

12. Plaintiff testified that he received only one other telephone call from an NCS representative after the initial call on May 25, 1999. His testimony about receiving additional calls was vague and self-contradictory.

CONCLUSIONS OF LAW

1. The correspondence dated June 9, 1999, co-addressed to Larry Hill and plaintiff was *bonafide* error pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k(c).

2. Plaintiff failed to prove by a preponderance of the evidence that his blood pressure problems were caused by the defendant's telephone calls. Plaintiff also failed to prove that his stress and emotional problems were caused by the defendant's telephone call.

3. Plaintiff's allegations fail to qualify as unfair practices pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et. seq. because NCS did not engage in harassment or abuse of plaintiff, nor were NCS' actions egregious, fraudulent, false or misleading. See 15 U.S.C. § 1692k(b)(1).

4. NCS committed no violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et. seq.

5. NCS committed no violation of the Pennsylvania Debt Collection Trade Practices Act, 37 Pa. Code § 303.1, et seq.

6. Neither plaintiff nor defendant are entitled to counsel fees.

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ORDER

AND NOW, this day of March, 2000, it is hereby ORDERED that JUDGMENT is hereby entered in favor of the defendant, National Credit Systems, Inc., and against the plaintiff, Richard Whiteside.

BY THE COURT:

ROBERT F. KELLY, J.